

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANTHONY BARBEE

vs.

SOUTHEASTERN PENNSYLVANIA
TRANSPORTATION AUTHORITY

: CIVIL ACTION
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: NO. 04-4063
:

FILED

MAY 16 2007

MICHAEL E. KUNZ, Clerk
By Dep. Clerk

MEMORANDUM

ROBERT F. KELLY, Sr. J.

MAY 16, 2007

On April 4, 2007, Plaintiff/Appellant Anthony Barbee ("Barbee") filed a Transcript Purchase Order and Motion for Leave to Proceed In Forma Pauperis with the Third Circuit Court of Appeals. This motion was originally filed with the Third Circuit, and on April 6, 2007 was refiled with the U.S. District Court for the Eastern District of Pennsylvania.

In his motion, Barbee requests that the Court provide him, at no cost, written transcripts of the trial held in this matter on October 30 and 31, 2006. Barbee's contention being that he cannot afford to pay for the trial transcript based on his income and assets. This motion is in essence a duplicate of Barbee's Motion to Excuse Payment of Costs of Trial Transcript dated November 29, 2006, which this Court refused on December 13, 2006. In the original motion filed with this Court Barbee alleged that paying for the trial transcript would impose on him a "severe difficulty financially" and he claimed that he received about \$600 per month in unemployment compensation benefits, that he has a four year old vehicle on which he makes lease payments and that he pays other unidentified expenses.

In response SEPTA presented documents from Barbee's bankruptcy filing in 2001

in which Barbee reported having assets exceeding \$119,000.00, including his home in Yeadon, Pennsylvania. (See Exhibit A, which is a true and correct copy of relevant portions of Barbee's bankruptcy records, U.S. District Court for the Eastern District of Pennsylvania, Case No. 01-37297.) Barbee's bankruptcy records also show that the vehicle on which Barbee allegedly is making lease payments is a 2001 Nissan Pathfinder sport utility vehicle then valued at \$20,000, and that Barbee also had a 1998 Chrysler Minivan valued at \$6,000. As shown in Exhibit A, Barbee retained all of these assets, his house in Yeadon, the Nissan Pathfinder, and the Chrysler Minivan, after his bankruptcy. (See Exhibit B which is a true and correct copy of Barbee's Chapter 7 Individual Debtor's Statement of Intention and his Schedule C Property Claimed as Exempt.)

Additionally SEPTA demonstrated that Barbee failed to report that on October 12, 2005, he received a settlement of \$24,000 arising out of a 2002 automobile accident. (See Exhibit C, which is a true and correct copy of the October 12, 2005 Release and Settlement of Claim.)

Now, four months later, Barbee has filed a Motion and Declaration for Leave to Proceed In Forma Pauperis which is broader than his prior motion which requested a free trial transcript but, still deals with the same issue that we disposed of on December 13, 2006.

In the forms submitted by Barbee he ignores the question asking the value of his home, but does list the mortgage on the home. He fails to identify the unemployment compensation benefits which he allegedly received several months ago. On November 29, 2006, Barbee told the Court the he was receiving about \$600 monthly in unemployment compensation benefits. Now, he does not disclose any unemployment compensation benefits at all during the past 12 months and claims that he receives about \$1,104 per month in workers' compensation

benefits. He failed to state in his prior motion that he was receiving any workers' compensation benefits during the same 12 month period.

The government has a right to expect candor from those applying for free court transcripts or *In Forma Pauperis* status. The burden should not be on the Court to wade through half truths and evasive answers in order to ferret out the real financial condition of one seeking free services from the court. This is especially true of this Plaintiff who has a vast history of personal litigation.

We therefore enter the following Order.

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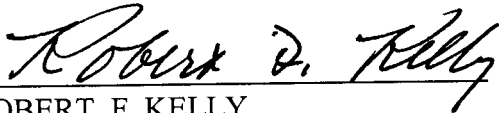
ORDER

MICHAEL E. KUNZ, Clerk
By Dep. Clerk

AND NOW, this *16th* day of May, 2007, upon consideration of

Plaintiff/Appellant Anthony Barbee's Motion and Declaration for Leave to Proceed In Forma Pauperis, (Doc. No. 88), and Defendant/Appellee's response thereto, it is hereby **ORDERED** that said Motion is **DENIED**.

BY THE COURT:


ROBERT F. KELLY
SENIOR JUDGE